

California Regional Water Quality Control Board
Santa Ana Region

February 2, 2007

ITEM : 17

SUBJECT: **San Diego Creek/Newport Bay Watershed Selenium Update**

Staff of the Orange County Resources and Development Management Department and Regional Board will provide status reports on selenium-related regulatory issues in the watershed, including the activities of the Nitrogen and Selenium Management Program and development of selenium TMDLs. (Information Item).



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
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Arnold Schwarzenegger
Governor

February 2, 2007

ITEM NO. 17

Mr. Chris Crompton, Manager
Environmental Resources
Resources and Development Management Department
County of Orange
1750 S. Douglass Road
Anaheim, CA 92806

Decision Package on Appropriateness to Commence Development of a Site-Specific Objective for Selenium in the Newport Bay Watershed for Compliance with Provision D.15.i(13) of Order No. R8-2004-0021, NPDES No. CAG998002

Dear Mr. Crompton:

We have received your decision package, dated December 20, 2006 and submitted on behalf of the Nitrogen and Selenium Management Program (NSMP) Working Group. The submittal letter indicates that the NSMP Working Group, including the Resources and Development Management Department of the County of Orange, has determined that the development of a site-specific objective for selenium for the Newport Bay Watershed is appropriate. The package includes reports documenting the scientific basis for the decision to proceed with site-specific objective development, including "Rationale for a Selenium Site-Specific Objective for the Newport Bay Watershed", and letters of endorsement of this decision from all twenty Working Group members and the two Participating Members.

As you are aware, Regional Board staff have been active participants in the NSMP effort and, based on our review of relevant scientific evidence provided in part by the Working Group, we agree with the determination that a site-specific objective for selenium in the Newport watershed is appropriate.

The decision package was submitted, in a timely manner, pursuant to Provision D.15.i. (13) of Order No. R8-2004-0021, NPDES No. CAG998002, General Waste Discharge Requirements for Short-Term Groundwater-Related Discharges and De Minimis Wastewater Discharges to Surface Waters Within the San Diego Creek/Newport Bay Watershed (Order). Requirements of the "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California" (the "SIP") pertaining to the development of site-specific objectives (delineated in Section 5.2 (2) and (3) of the SIP) were satisfied in the Regional Board's development and adoption of this Order. The submittal of the decision package, the ongoing commitment by the Working Group members to fund the NSMP program, including the development of a site-specific objective, and the anticipated development of a final, detailed site-specific objective development workplan, constitute compliance with the requirement of Section 5.2 (1) of the SIP.

California Environmental Protection Agency



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The NSMP effort to date has been characterized by a high level of scientific expertise and scrutiny, including review by a Blue Ribbon panel of experts. Ongoing involvement by Regional Board staff and staff of the State Water Resources Control Board, US Environmental Protection Agency, US Fish and Wildlife Service, US Geological Survey and others with relevant scientific expertise will assure that scientifically defensible methods will be employed in the site-specific objective development process, as required by the SIP.

We appreciate the explicit acknowledgement in the submittal letter that "the decision to commence SSO development is not equivalent to acceptance of current conditions". While it appears that it will not be necessary to adhere to the California Toxics Rule selenium freshwater chronic criterion of 5 micrograms per liter ($\mu\text{g/L}$), we fully expect that reductions in existing selenium concentrations in surface waters in the watershed will still be required to protect all beneficial uses, including the support of Federal and State threatened and endangered species.

The completion date for Working Group recommendations for the site-specific objective is June 17, 2009, as required by Provision D15.i(13) of the Order. Regional Board staff understand that the Working Group will continue to review and assess new information and data to ensure that development of a site-specific objective for selenium continues to be necessary and appropriate. For example, ongoing efforts to identify effective selenium control technologies sufficient to meet effluent limitations based on existing CTR criteria may, if successful, obviate the need to pursue the development of a site-specific objective. We agree that this ongoing evaluation of the need to pursue a site-specific objective is reasonable and appropriate.

Should you need to discuss this matter further, please contact Joanne Schneider at (951) 782-3287 (jschneider@waterboards.ca.gov) or Terri Reeder at (951) 782-4995 (treeder@waterboards.ca.gov).

Sincerely,

Gerard J. Thibeault
Executive Officer
Santa Ana Regional Water Quality Control Board

cc:

Regional Board
Karen Cowan, NSMP Chair, Orange County Resources and Development Management Department
Rik Rasmussen, Chief, Planning Standards & Implementation Unit, State Water Resources Control Board
Susan Saucerman, Water Quality Standards and Permits, US Environmental Protection Agency Region IX

